United Nations S/2006/119

Security Council

Distr.: General
22 February 2006

Original: English

Letter dated 20 February 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached sixth report from Estonia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-25259 (E) 020306

Annex

Letter dated 16 February 2006 from the Permanent Representative of Estonia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to refer to your letter dated 16 November 2005 and forward herewith Estonia's response to the issues raised in sections 1 and 2 of that letter (see enclosure).

(Signed) Uno **Intelmann**
Ambassador
Permanent Representative

Enclosure

1. Implementation of Security Council resolution 1373 (2001)
ESTONIA

1.1. Regarding the outline of the recently adopted legislation on money laundering:

- The Estonian legal system concerning combating money laundering and terrorist financing is based on the revised Money Laundering and Terrorist Financing Prevention Act (the Prevention Act), which came into force on 1 January 2004. The tasks and obligations of the financial institutions in denying safe heaven for persons who have given reasons for considering that they have acted to commit or committed terrorist acts are described in the domestic International Sanctions Act. The requirements of this act will be further developed either in the legislation or in Estonian Financial Supervision Authority Guidelines in 2006.

Respecting its international obligations, Estonia has fully implemented

- the Second Directive of the European Parliament and of the Council on the Prevention of the use of the financial system for the purpose of money laundering;
- the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;
- the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime;
- the 2000 Convention against Trans-national Organized Crime;

To continue making domestic legal environment compatible with the provisions of international law, Estonia is planning to finalize in 2006-2007 the implementation of the following international acts to which Estonia is a Party:

- the Third Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;
- the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism;
- the 2003 United Nations Convention against Corruption;
- the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

The implementation of the Third Directive of the European Parliament and of the Council is the most demanding as its implementation requires making several amendments to Estonian laws and probably some new legal regulations have to be drafted.

- On the basis of the Money Laundering and Terrorist Financing Prevention Act in 20
has been issued a Decree by the Estonian Minister of Finance *"Requirements on the measur*
implemented by credit and financial institutions and on the internal procedures for control
application of the measures".

The Decree gives guidelines to the relevant institutions for the identification of client by m
documentation and publicly available information. Guidelines for establishing client pro
updating information in due course on client relationship, as well as maintaining the informati
the termination of the relationship between the client and the credit or financial institution
included into that decree.

The above-mentioned Decree has been applicable since 1 January 2006 and some subjects
supervision of the Financial Supervision have already reported of making corresponding amen
to their internal regulations.

In 2005 Financial Supervision Authority has in the due course of its activities continu
supervision of the compliance of the supervised subjects with the anti money-laundering legi
We stress that with regard to new entries to the Estonian market the internal AML-rules - amon
documents and data - of each such subject was evaluated.

To guarantee compliance with the regime of sanctions in Estonia, credit and financial institutio
to implement international financial sanctions that have been enforced either by the UN or
other international organization or by the Government of the Republic of Estonia on is own in
The credit and financial institutions are therefore liable for non-compliance with the obliga
implementation. Fulfilling its routine supervisory activities the Estonian Financial Security Au
controls the adequacy of the internal measures of the supervised entities for the implementatio
international sanctions. The non-compliance by a supervised institution is regarded as a c
offence in Estonia.

The practical problems relating to the application of the AML requirements for the ban
discussed in the special AML working-group convened by the Estonian Banking Association
The composition of EBA working-group makes it possible that the AML compliance offi
different Estonian credit institutions as well as the representatives from the national Fi
Intelligence Unit and Estonian Financial Supervision Authorities are closely working togeth
exchange relevant information without delay or communication problems.

The Money Laundering and Terrorist Financing Prevention Act provides that another institutio
national Financial Intelligence Unit (FIU) is a body which shall be permanently informed
different credit and financial institutions upon carrying out a transaction or transactions wi
indication of terrorist financing activities. To fulfil that task properly, the Financial Intelligenc
is also regularly communicating with banks and money remitters to guarantee fluent infor
sharing. In cooperation with the officers of the Security Police Board, the FIU is forwarding the
countries of concern to the credit institutions and money remitters requesting to focus their att
to the transactions to/from listed countries. To educate the staff of the private financial institut

2005 FIU has given a series of lectures to the private Banks personnel about terrorist financing with the purpose of raising their awareness.

To enhance the cooperation between different state institutions several amendments were adopted in 2005 to the Governmental decree *"The procedure for the registration and processing of information collected by the FIU"*. Accordingly the Director General of Security Police Board has to appoint a special contact person who, in cooperation with FIU, analyses the suspicious terrorism financing information notified by credit- and financial institutions or by other entrepreneurs.

- The amendments to the Money Laundering and Prevention Act (as enforced on January, 1, 2004) provide that the rules applicable to the credit and financial institutions also apply to the institutions and persons mentioned above, with regard to anti-money laundering and anti-terrorist financing issues: money exchange offices, money remitters and real estate businesses. The credit unions (savings and loan associations) are considered to be credit and financial institutions by the Act (art 4).

Accordingly the exchange offices, money remitters etc are under the supervision of the Estonian Financial Intelligence Unit. All Estonian legal entities – inter alia exchange offices, savings and loan associations - have to be entered into the Commercial Register and up-date their registered data regularly. All necessary data for identifying the entities is also electronically available. Exchange offices also have to apply for the entry into the second register – the Register of Economic Activities kept by the Ministry of Economic Affairs and Communications.

It could be pointed out here that the Money Laundering and Prevention Act applies also to the organizers of gambling or lotteries, persons trading in high-valued goods (like precious stones, precious metal, art), on condition that the sum received by them is
100 000 Estonian kroons (~6400 €) or higher. The same is applied to the Auditors, external accountants and tax advisors; notaries and advocates, whenever they provide legal assistance in specified cases; and other persons if payments received by them or made by them are at least 100 000 Estonian kroons in cash; or if they carry out a transaction amounting to 200 000 kroons whether the transaction is carried out in a single operation or in several operations which appear to be linked.

- In July 2005 the task to co-ordinate the Estonian policy in anti-money laundering and terrorist financing issues was transferred from the Ministry of Internal Affairs to the Ministry of Finance while the Finance Intelligence Unit has remained a structural part of the Central Criminal Police within the purview of the Ministry of Internal Affairs.

On the basis of the Money Laundering and Terrorist Financing Prevention Act a Decree by the Minister of Finance *"Requirements on the measures to be implemented by credit and financial institutions and on the internal procedures for controlling the application of the measures"* has been issued. The Decree gives guidelines on the identification of a client by using different documents and publicly available information to establish the client profile and up-date that information. The information should be maintained even if the relationship between the client and the credit or financial institution has been terminated.

In 2005 the Estonian Financial Supervision Authority (EFSA) has focused on the evaluation anti-money laundering and counter-terrorist financing measures applicable by the supervised participants. The internal measures of the supervised market participants have been reviewed course of on-site inspections to the financial institution as well as when processing the licences legal entities applying for the entry into the market.

1.2. According to the Section 237 of the Estonian Penal Code (terrorism), acts aimed at c damage to health, death or occupying, damaging or destroying property with the purpo instigating war or international conflict or with political or religious purpose are punishable.

At the present moment the recruiting of persons specifically for terrorist purposes or orga terrorism have not been criminalized. However, persons who have committed such acts may b responsible as abettors and accomplices according to the sections treating participation in crime general part of the Criminal Code. The responsibility of the abettor and accomplice to a crime a requires the responsibility of the perpetrator. Therefore the given regulation is not always sufficie July 2005, the Government of the Estonia approved *the Council of Europe Convention o Prevention of Terrorism*, which was open for signing on 16 May 2005.

Estonia signed the Convention in September 2005 and intends to ratify it in 2006. According Convention the member states, which have expressed their consent to be bound by it, ha criminalize instigation to terrorism, recruiting to terrorism and training for terrorism. Proceeding the Convention, a number of amendments to the legislation have to be put forward to the Parliam

The Ministry of Justice has prepared a draft amendment according to which the relevant articles Penal Code would be supplemented by an article that criminalizes public appeals to commit a te crime, preparing a terrorist crime, recruiting of a person and arranging training as well as fina and intentionally supporting terrorist crime. The amendments will be passed to the Parliament a adoption thereof is expected in 2006.

1.3. In the case of cyber-crimes enacted in the Penal Code, property is regarded as the legal damaged by them and cyber-crimes are not considered as a special kind of terrorist crimes. In ca recruiting of terrorists, inciting to terrorist crimes and organizing terrorist crimes takes place ov internet, the persons are responsible according to those articles of the Penal Code that fo responsibility for terrorist crimes.

1.4. The amendments to the Aviation Act referred to at the para.1.2.1 in the Estonia's fifth report passed by the Estonian Parliament on 5 May, 2005 and entered into force on 27 May 2005.

The amendments to the Maritime Safety Act referred to at the para. 1.2.2 in the fifth report passed by the Parliament on 12 May, 2005 and entered force on
2 June 2005.

1.5. Illegal handling of firearms and explosives and their illegal import and export is a criminally punishable activity in Estonia. The Law of Strategic Goods, the Law of Explosives and Law of Weapons and the different regulations enforced by these laws create an effective and fully satisfactory legal framework to prevent illegal handling of weapons and explosives. From the institutional side fighting against illegal weapons and explosives has been and will be a principal task of the Estonian Security Police Board. In co-operation with other security and law enforcement institutions, one has actively collected and analysed relevant information and illegal weapons and explosives have been confiscated from criminals. The number of weapons and the amount of explosives in illegal circulation has diminished from year to year. The fall in the number of explosives demonstrates the same trend. While there were altogether 81 explosions of explosives or payloads with criminal character in 1995 in Estonia, in 1999 35 and in 2004 7 such explosions took place.

2. Implementation of resolution 1624 (2005)

2.1. In Estonia, terrorism as a criminal offence is currently defined in Section 237 of the Penal Code. According to it, acts aimed at causing health damage, death or at unlawful seizure, damaging or destruction of property, committed with the intention to provoke war or an international conflict or for political or religious causes, are punishable. At the present moment incitement to commit a terrorist offence is not criminalized in the special part of the Penal Code. However, a person who has committed such act may be held responsible as an abettor according to the articles on participation in crime of the general part of the Penal Code.

The responsibility of the abettor always requires the responsibility of the perpetrator. Without perpetration complicity in a crime is not possible. Therefore the given regulation is not always sufficient. With its order No. 466 of 21 July 2005 the Government of the Estonia approved the Council of Europe Convention on the Prevention of Terrorism that was opened for signature on 16 May 2005. Article 5, paragraph 2 of the Convention states that "each Party shall adopt such measures as may be necessary to establish public provocation to commit a terrorist offence /.../ when committed unlawfully and intentionally, as a criminal offence under its domestic law". Estonia signed the Convention in September 2005. Estonia intends to ratify the Convention in 2006.

Proceeding from the Convention, a number of law amendments have to be put to the Parliament. One of them is the draft Amendment Act of the Penal Code, criminalizing as a principal offence, *inter alia*, incitement to commit a terrorist offence.

2.2. According to the Estonian law (Aliens Act), residence permit is neither issued nor extended to an alien about whom there is information or credible evidence to believe that he or she belongs to a terrorist group or has committed a terrorist act. In case that person has been issued a residence permit earlier, the residence and work permit of such a person shall be declared invalid.

According to the Obligation to Leave and Prohibition on Entry Act, prohibition on entry may be imposed on an alien if there is information or serious reason to believe that he or she is a member of a terrorist organization or has committed an act of terrorism.

Estonian Security Services collect information about convicted persons, incl. persons who incited to terrorism. A cooperation agreement has been signed between the Security Police Board the Border Guard Board, to facilitate the exchange of information concerning persons convicted terrorism, including persons who have incited to terrorism.

To those about whom there is information or serious reason to believe that they have been involved incitement in some other country, visa denial may be applied. Considering that Estonia has signed the Council of Europe Convention, on the basis of information from the Security Police the person will be included in the prohibition on entry register. However, neither Estonia nor European Union has a general list of persons who have been convicted in some other country incitement or whom there is serious reason to suspect in such activity.

2.3 By the end of 2007, Estonia has to be ready to accede to the EU Schengen Treaty that strengthen control on Estonia's borders as the external borders of the EU and remove control on internal border with EU countries. In order to make preparations for entering the Schengen visa a close cooperation is going on between Estonia and the other 24 EU member states and working groups in the following fields: creating the Schengen information system, enhanced strengthened control on Estonia's external borders, internal surveillance of foreigners, cross-border police cooperation, cooperation in visa policy and legal cooperation. Preparations for acceding Schengen Treaty also include cooperation with the EU in the application of biometrics, strengthening the security of documents, control of migration, preventing cross-border trafficking of drugs, weapons and ammunition.

For such cooperation Estonia receives Schengen Facility Aid of 68.7 million euros from the European Union in order to apply the acquis by the end of 2006. In 2006 the EU Schengen Treaty experts make special assessment visits to control the readiness of sea border, air border and mainland borders for conformity with the requirements of the EU. The application of all these measures also prevents persons connected with incitement or persons using fraudulent documents from crossing the border of Estonia as a member state of the EU. To enhance security, Estonia also uses the resources of Europol.

On the bilateral level Estonia has signed agreements on mutual legal assistance with countries mentioned below on fight against crime including fight against terrorism. These agreements contribute to preventing unwelcome persons, incl. terrorists from entering the country. Legal assistance agreements have been signed with the United States, Finland, Russia, the Federal Republic of Germany, Turkey, the United Kingdom of Great Britain and Northern Ireland, Slovenia, Latvia, Hungary and Austria.

On the regional level Estonia is involved in active co-operation with the border guards of neighboring states on both the operative and strategic levels. In order to guarantee more efficient security and control of borders, the national Board of Border Guard has signed co-operation agreements (co-operation protocols, declarations) with the Border Guard Board of the Republic of Finland, The State Border Guard of the Republic of Latvia, Coast Guard of the Kingdom of Sweden, Border Guard of the Republic of Poland, State Boarder Guard Committee of Ukraine and Georgian state border guard.

In addition a trilateral agreement on cooperation between the Board of Border Guard of the Republic of Estonia, the Republic of Finland and the Boarder Guard Service of the Federal Security Service of the Russian Federation on cooperation in issues concerning the security of borders in the region of the Gulf of Finland has been signed. All the cooperation agreements mentioned also contain provisions for cooperation to discover fraudulent travel documents.

2.4. Estonia is following the European Union's Counter-Terrorism Strategy, which has four pillars - prevent, protect, disrupt and respond. These pillars focus the member states on collective response to the international terrorist threat.

Working within the first pillar (Prevention) the EU member states drafted a special document in the second half of year 2005 - *EU Strategy against radicalization and recruitment*, which was passed by the Council of Europe in December 2005. Estonia contributed to the drafting process and Estonian representatives participated in all working-groups.

The Strategy against radicalization is aimed to counter radicalization and recruitment to terrorist groups such as Al Qaeda and the groups it inspires. To cope with that task the Strategy stresses the need to eliminate the structural factors supporting radicalization both within the EU and outside it and to promote inter-cultural dialogue, debate, and, where appropriate, long term integration. Outside Europe, the aims are promoting good governance, human rights, democracy, as well as education and economic prosperity through our political dialogue and assistance programs. The EU Strategy against radicalization creates a good framework for cooperating and coordinating national policies in the EU, for sharing information and applying good practice.

In the field of integration an action plan for governmental agencies and other institutions was elaborated in 1999 for the years 2000-2007. As for today, the State Integration Program is a cornerstone for the state integration policy, the aim of which is to create a multicultural society characterized by cultural pluralism, mutual respect among different ethnic groups, and equal opportunities for participation in societal life.

The State Integration Program is financed in international cooperation with governments of Finland, Sweden, Denmark, Norway, Canada, USA and UK. Also the United Nations Development Program (UNDP), the European Union, the Council of Europe, the British Council, the Open Estonian Foundation and others support various integration and language training programs in Estonia.

2.5. There have been no cases of (political, religious or other) terrorist acts in Estonia since regaining its independence in 1991. Nor have there been identified any terrorist organizations, cells or terrorists in the country.

No Christian or non-Christian religious radicalism or radical activities have been detected in Estonia. The moderate non-Christian religious communities are very small.

Estonia has been able to prevent and suppress any kind of extremist-oriented activity over the last 15 years. The only extremist group to remain to be mentioned here is a small group of skinheads and their activity is limited to occasional events.

According to the estimations of relevant Estonian services, the problem of incitement to terrorism and the inducement of educational, cultural and religious institutions to supporting terrorism are not probable in the near future. In case such indications occur, state authorities will follow in their activities the guidelines of *the EU Strategy against radicalization and recruitment* into terrorism.

2.6. Estonia has acceded to several international conventions regulating cooperation on criminal procedures. Estonia is also a Party to the Rome Statute of the International Criminal Court (ratified it on the 30th of January 2002). In addition Estonia has signed bilateral agreements on legal assistance in criminal matters. According to Section 433 of the Code of Criminal Procedure Estonia participates in international cooperation on criminal procedure. International cooperation comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, co-operation with the international criminal Court and extradition to member states of the European Union.

The same law clearly states that international cooperation in any criminal procedure can be effected pursuant to the provisions of domestic law „... unless otherwise prescribed by an international agreement of the Republic of Estonia or the generally recognized principles of international law". Accordingly it is prohibited for Estonia to cooperate legally with any other country on cases where such cooperation can result in the violation of the provisions of international human rights law, refugee law or humanitarian law.

The basis of restrictions to principal rights foreseen in certain laws (Security Authorities Act, Surveillance Act, Obligation to Leave and Prohibition on Entry Act), follow the provisions of the international humanitarian law, comply with human rights conventions and are proportional.